IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4719 OF 2004

Shrirang Shridhar Naik ... Applicant

versus

The State of Maharashtra ... Respondent

...

Mr. J.B. Kocheta, for the Applicant.

Mr. D.R. More, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

23rd November 2004

P.C.:

. Heard Counsel for the parties. Perused the record. Prosecution case is that the Applicant was arrested and found to be in possession of one kg. of charas. According to the Applicant, assuming that the prosecution case is correct, one kg. of charas is not a commercial quantity and for which reason, rigours of section 37 of the N.D.P.S. Act will have no application. To support this contention, reliance is placed on the Full Bench decision of

the Himachal Pradesh High Court reported in 2003 (3) Crimes 323 in the case of Ratto v. State of H.P.; as well as unreported decision of this Court in Criminal Application No. 4242 of 2004 decided on 20th October 2004, which has followed the opinion of the Full Bench of the Himachal Pradesh High Court. The fact that the contraband recovered was only one kg. of charas is not in dispute. If it is so, applying the above principle stated by the Full Bench of the Himachal Pradesh High Court, we will have to proceed on the basis that the contraband recovered from the Applicant being one kg. of charas, is not commercial quantity and, therefore, rigours of section 37 of the Act will have no application. Taking overall view of the matter, the Applicant deserves to be enlarged on bail on strict conditions as follows.

(a) The Applicant is enlarged on bail in connection with CR.No. 3121/2003 registered with Cantonment Police Station, Pune, on executing personal bond in the sum of Rs.1 lakh with two local sureties in the like amount.

(b) The concerned Applicant shall attend the concerned office and the investigating officer once in fortnight on Saturday between 10 a.m. to 1 p.m.

(c) The Applicant shall inform his place of residence, where he intends to reside after his release within one week from the date of release to the investigating officer as well as the Registrar of the concerned Court.

(d) The Applicant shall not engage himself in similar activity while on bail.

(e) The Applicant shall not influence the prosecution witnesses nor shall tamper with the prosecution evidence in any manner whatsoever.

(f) The Applicant shall extend full co-operation for early disposal of the trial. If the trial Court is of the opinion that the Applicant is responsible for delay in disposal of the trial, that

fact be recorded in the roznama, which may be a ground for cancellation of bail.

. Application disposed of on the above terms.

. Parties to act on the authenticated copy of this order.

(A.M.KHANWILKAR,J.)